

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BAGLY, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

Civil Action No.: 20-cv-11297-PBS

**MOTION FOR LEAVE TO FILE EXCESS PAGES FOR PLAINTIFFS' ANTICIPATED
PARTIAL MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 7.1(b)(4), Plaintiffs respectfully request leave to exceed the twenty (20) page limit for its memorandum of law in support of its partial motion for summary judgment. Plaintiffs request an additional fifty (50) pages, for a total of seventy (70) pages. Undersigned counsel conferred via electronic mail with counsel for Defendants on March 8, 2024 regarding this request. On March 12, 2024, Defendants indicated that they take no position regarding Plaintiffs' request. As grounds for this motion, undersigned counsel states as follows:

1. Plaintiffs filed their Amended Complaint in this action against Defendants on September 18, 2020. ECF No. 18. The Amended Complaint contains four separate counts asserting numerous claims for violations of the Administrative Procedure Act concerning Section 1557 of the Patient Protection and Affordable Care Act ("ACA").
2. Defendants filed a Motion to Dismiss on October 14, 2020, ECF No. 21, which this Court largely denied, ECF No. 63.
3. On July 25, 2022, Defendants issued a notice of proposed rulemaking regarding Section 1557 of the ACA. ECF No. 104-1 (July 25, 2022).

4. On August 24, 2022, the Parties filed a joint motion to stay all proceedings until thirty (30) days after Defendants publish a new final rule implementing Section 1557. ECF No. 111.

5. On July 18, 2023, the Court issued an Order that Plaintiffs' motion for summary judgment "should be filed no earlier than December 21, 2023." ECF No. 123.

6. Plaintiffs now intend to file a Motion for Summary Judgment. Plaintiffs believe that seventy (70) pages will be necessary to fully address the complicated and lengthy history of this case, as well as address many nuanced legal arguments and an extensive administrative and factual record.

7. Plaintiffs respectfully submit that there is good cause for Plaintiffs' proposed enlargement of the twenty (20) page limit given the lengthy Complaint, extensive history of the rulemaking process, and the complexity of the legal issues Plaintiffs intend to raise.

8. Undersigned counsel conferred via electronic mail with counsel for Defendants on March 8, 2024 regarding Plaintiffs' request for a page enlargement of up to seventy (70) pages total. On March 12, 2024, Defendants indicated that they take no position regarding Plaintiffs' request.

Dated: March 12, 2024

Respectfully submitted,

/s/ Gregory F. Noonan

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**Admitted Pro Hac Vice*

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 12, 2024, a copy of the foregoing was filed and served via ECF on all counsel of record.

/s/ Gregory F. Noonan
Gregory F. Noonan

LOCAL RULE 7.1(a)(2) CERTIFICATION

Pursuant to Rule 7.1(a)(2), undersigned counsel hereby certifies that counsel for Plaintiffs conferred with counsel for Defendants, who does not take a position on Plaintiffs' request.

/s/ Gregory F. Noonan
Gregory F. Noonan